UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

MRI SOFTWARE, LLC,	)	CASE NO. 1:12-cv-01082-CAB
	)	
Plaintiff,	)	JUDGE Christopher A. Boyko
	)	
v.	)	
	)	**ADDENDUM TO STIPULATED**
LYNX SYSTEMS, INC.,	)	**PROTECTIVE ORDER REGARDING**
	)	**SOURCE CODE**
Defendant.	)	
	)	

This Addendum to the Stipulated Protective Order entered by the Court in this action on July 12, 2012 incorporates therein the following provision regarding the production of "Source Code" (as defined below).

    20. **Source Code.** To the extent that production of confidential, proprietary or trade secret information that comprises computer source code and/or live data (that is, data as it exists in a database) ("Source Code") becomes necessary in this case, a producing party may, at its sole discretion, produce same pursuant to the following "**Source Code Procedure**."

(a) **Scope.** "Source Code" may include all forms of digital computer instructions (in human readable form or otherwise) and information and materials embodying same, including but not limited to embedded applications implemented as firmware, software, hardware, or any combination thereof, software, programs, drivers, application program interfaces (APIs), source code, object code, compiled code, byte code, interpreted code, any form of code stored in any digital storage medium, and any form of programmable logic code, source code for logic compilers, and/or hardware description languages for programming a configurable digital circuit such as a programmable logic controller or device (PLC or PLD). "Source Code" may also include code written in any and all programming languages, command languages and shell languages and all "header files," "make" files, project files, link files, scripts, live data (that is, data as it exists residing in a database or databases) and all embedded programmer notes and comments.

(b) **Designation.** A producing party may designate Source Code as "ATTORNEYS' EYES ONLY – SOURCE CODE." In addition to the protections applicable to "ATTORNEYS' EYES ONLY" information, the following additional protections will apply to information designated "ATTORNEYS' EYES ONLY – SOURCE CODE," unless the producing party and receiving party agree otherwise, in writing.

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(c) **General Protections.** Information designated ATTORNEYS' EYES ONLY – SOURCE CODE under this Order shall not be used or disclosed by outside counsel for the parties or any other persons identified below except as strictly provided in this Source Code Procedure or for any purpose whatsoever other than to prepare for and to conduct discovery and trial in this action, including any appeal thereof. Subject to these requirements, the following categories of persons may be allowed to review documents and information that have been designated ATTORNEYS' EYES ONLY – SOURCE CODE:

(1) **Outside Counsel.** Outside counsel of record for the receiving parties and employees and agents of such counsel who have responsibility for the preparation and trial of the action;

(2) **Court Reporters and Recorders.** Court reporters and recorders engaged for depositions;

(3) **Independent Consultants, Investigators, and Experts.** Independent consultants, investigators, or experts specially retained by the receiving parties or counsel for the receiving parties to assist in the preparation and trial of this action. The right of a person to receive any ATTORNEYS' EYES ONLY – SOURCE CODE documents or information under this subparagraph will be subject to the advance approval of disclosure to such person by the producing party or by permission of the Court. The party seeking approval of disclosure to an independent consultant, investigator, or expert must provide the producing party with the name and curriculum vitae of the proposed individual and an executed copy of the certification contained in Attachment A, Acknowledgment of Understanding and Agreement to Be Bound, in advance of providing any ATTORNEYS' EYES ONLY – SOURCE CODE documents or information of the producing party to that person. Any objection by the producing party to disclosure to an independent consultant, investigator, or expert receiving ATTORNEYS' EYES ONLY – SOURCE CODE documents or information must be made in writing within 5 business days following receipt of the identification of the proposed person, must be made upon counsel's good faith belief that disclosure to such person would threaten the producing party's business, and must set forth how disclosure to the proposed recipient would threaten the producing party's business. Within 3 business days after the receipt of such writing, the party seeking approval of disclosure to the independent person shall inform the producing party whether it intends to proceed with the disclosure to the independent person or withdraw its request for approval. If the party seeking approval does not withdraw its request for approval, the producing party may file a motion for protective order with the Court. ATTORNEYS' EYES ONLY – SOURCE CODE documents or information may be disclosed to an independent consultant, investigator, or expert if no motion for protective order has been filed by the producing party within 10 business days following receipt of the identification of the proposed person. Approval of independent consultants, investigators, or experts must not be unreasonably withheld; and

(4) **Others by Consent.** Other persons only by written consent of the producing party or upon order of the Court, subject to the further conditions of this Source Code Procedure. All such persons shall execute the certification contained in Attachment A, Acknowledgment of Understanding and Agreement to Be Bound.

(d) **Inspection and Use.** Access to documents designated Source Code shall be provided only to such persons (1) who have complied with the provisions of section 20(c) above and (2) who are not a current or former employee, officer, director, or managing agent of a Party and who, at the time of retention, are not anticipated to become an employee, officer, director, or managing agent of a Party and shall be subject to the following restrictions:

i.   Source Code shall be provided for inspection and analysis on a stand-alone computer (*i.e.*, not connected to a network or the Internet) in a secure location at a location within the United States selected by and subject to the control of the producing party, specifically the offices of MRI Software, LLC 28925 Fountain Parkway, Solon, OH 44139, or Calfee, Halter & Griswold LLP, 1405 East Sixth Street, Cleveland, OH 44114 for code produced by Plaintiff, at the offices of McDonald Hopkins, LLC, 600 Superior Ave., E., Suite 2100, Cleveland, OH 44114 for code produced by Defendants, or such other location as may be mutually agreed by the parties. The producing party shall not install on the stand-alone computer any tools for, or otherwise configure the stand-alone computer to have capability for tracking, logging or monitoring the requesting party's use thereof, including its inspection, analysis, or printing of Source Code. The producing party shall provide access to the stand-alone computer for the duration of this case between 8 a.m. and 6 p.m. local time on reasonable notice.

ii.   The stand-alone computer shall have installed thereon tools or programs for electronically analyzing code that shall, at a minimum, provide the ability to (a) view, search, and line-number any source file, (b) search for a given pattern of text through a number of files, and (c) compare two files and display their differences, and such other tools as may be mutually agreed by the parties, in order to search, view, analyze, and print Source Code. To the extent that any such tools or programs for electronically analyzing Source Code require a paid license, that license must be provided by the receiving party at the receiving party's expense and, before any inspection takes place, the receiving party must provide a written assurance to the producing party that the receiving party's use of such tools or programs in the course of the inspection complies with the terms of the license for that tool or program. Receiving party may provide to producing party additional data, information or code, such as the receiving party's Source Code, and upon a request from receiving party and reasonable notice, producing party shall use reasonable efforts to install such additional data, information or code onto the stand-alone computer containing the producing party's Source Code. Except to the extent necessary to load it onto the stand alone computer, the producing party shall not analyze or review any such data, information or code received from the receiving party to be loaded onto the stand alone computer, and producing party shall not make a copy thereof, provided however, that nothing in this paragraph shall limit any of receiving party's

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obligations pursuant to the Federal Rules of Civil Procedure, including without limitation, Rule 26.

iii.   The producing party shall make such code available for inspection in native format, with its associated build files, scripts, etc., sufficient to allow a user to search, view and analyze the code.

iv.   The receiving party shall provide a list of persons who intend to inspect the Source Code to the producing party at least five (5) business days in advance of any scheduled inspection.

v.   No copies of any portion of Source Code made available for inspection hereunder may leave the room in which the Source Code is made available for inspection except as otherwise provided herein. The receiving party's outside counsel and/or experts may take handwritten notes relating to such Source Code, or use a dictation-only device, but may not copy Source Code into their notes in such a manner as to circumvent the protections herein.

vi.   No electronic copies may be made of Source Code made available for inspection hereunder.

vii.   The receiving party may not copy, remove, or otherwise transfer any portion of Source Code made available for inspection hereunder onto any recordable media or recordable device. Other than a dictation-only device, receiving party may not take any form of recordable media or recordable device, including without limitation, any sound recorder, cellular telephone, peripheral equipment, CD, DVD, camera, computer, computer storage device, or smart phone into the room in which the Source Code is available for inspection. Producing party shall provide a land-line telephone in the room in which such Source Code is available for inspection and an area outside the room where a cell phone may be used. Producing party shall provide the phone number for the land-line to receiving party and receiving party may forward phone calls to such land-line.

(e)   **Printouts or Photocopies of Excerpts.** At the request of the receiving party, the producing party must provide a non-networked printer from which a paper copy of the portions of Source Code, or the results of receiving party's analysis of Source Code, that are reasonably necessary to the receiving party may be made by the receiving party, which outside counsel for the receiving party or person to whom disclosure of Source Code is permitted under Section 20(c) may take following inspection. The producing party shall provide means for affixing to or otherwise labeling each printed page of Source Code with a Bates Number and an "ATTORNEYS' EYES ONLY—SOURCE CODE" legend. The receiving party shall use such means to designate such Source Code as "ATTORNEYS' EYES ONLY—SOURCE CODE" when printed. The receiving party shall keep the printed Source Code in a secure location in an access-controlled facility at the offices of the receiving party's outside counsel or the primary business address of the receiving party's expert at all times. For security purposes only and for no other reason, the receiving party shall maintain a complete

log of Bates-numbered pages of printed SOURCE CODE and shall produce such log at the time its first expert reports are delivered. Further, the log must be supplemented with each new expert report and ten (10) days after trial. The producing party shall not undertake any effort to track or otherwise determine which pages of code have been accessed, reviewed, analyzed or printed. No additional copies of such code may be made except as provided in subsection (f) - (h) below.

(f) **Use of Excerpts at Deposition.** A receiving party that wishes to use any document designated as Source Code at a deposition may make only as many paper copies, and only of the specific pages, as the receiving party intends to actually use at, or anticipates may be reasonably necessary for, the deposition. At the conclusion of the deposition, the producing party will collect the original of any exhibit containing Source Code, which shall not be appended to the transcript of the deposition. If the receiving party has a concern as to the accuracy of a copy of a deposition exhibit, the producing party shall make available the original exhibit(s) at the request of the receiving party. The outside counsel for the receiving party may retain one paper copy of the exhibit and the receiving party's expert may retain one paper copy of the exhibit. The producing party will destroy all other paper copies of exhibits containing Source Code. If the receiving party made copies of portions of Source Code for purposes of the deposition, but did not use such portions as an exhibit at the deposition, the receiving party shall promptly destroy all such copies.

(g) **Filing of Excerpts.** A receiving party that wants to file or otherwise submit any document designated as Source Code to the Court in connection with a filing shall, and is hereby authorized to, file such document under seal in paper form, and serve, via hand delivery, a copy thereof on counsel for the producing party. No earlier than 7 days prior to the relevant filing, the receiving party may make only as many paper copies, and only of the specific pages as needed, for submission to the Court and service on counsel.A document containing Source Code filed under seal shall be deemed timely filed if the receiving party files the relevant document, with Source Code redacted or omitted, on or before the due date for filing in paper form or via ECF, and files and serves the un-redacted paper copy containing Source Code the following business day.

(h) **Expert Reports.** To the extent reasonably necessary to prosecute or defend this case, a receiving party may include excerpts of Source Code in an expert report or discovery document provided that the Source Code excerpts are appropriately marked under this Order and restricted to those who are entitled to have access to them as specified herein.

So Ordered.

Dated: 3/3/2015 _____

s/Christopher A. Boyko

_____

U.S. District Judge U.S. Christopher A. Boyko

WE SO MOVE/STIPULATE
and agree to abide by the
terms of this Order

/s/ Georgia E. Yanchar

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Counsel for MRI Software, LLC

Dated: 2/24/2015

WE SO MOVE/STIPULATE
and agree to abide by the
terms of this Order

/s/ David T. Movius

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Dated: 2/24/2015

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